IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :09.04.2026

Pronounced on :22.04.2026

CORAM

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MR.JUSTICE SHAMIM AHMED

C.M.A.No.1327 of 2019

The Commissioner of Customs,
Chennai-II Commissionerate,
Custom House,
No.60, Rajaji Salai,
Chennai 600 001. .. Appellant/Respondent

/versus/

M/s Orion Enterprises,
No.4, Lalta Yadav Chawl Near Prakash Nagar,
Lake Road, Sonapur,
Bhandup West,
Mumbai 400 078. ..Respondent/Appellant

Civil Miscellaneous Appeal has been filed under Section 130 of Customs Act, 1962, to consider the above Substantial Questions of Law raised by the appellant and set aside the Final Order No.42483 of 2018 dated 25.09.2018 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant :Mr.P.Rajnish
For Respondent :Mr.B.Sathish Sundar

JUDGMENT

*(Judgment was delivered by **Dr.G.JAYACHANDRAN, J.**)*

On being aggrieved by the Final Order dated 25.09.2018 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai, this Appeal is filed by the Customs Department,

2. M/s Orion Enterprises, Mumbai, imported a 2016 year model vehicle (MY2017) RHD New Brand Cadillac Escalade SUV Luxury Collection 10 seater, 6.2 LTR, V8 Petrol Chassis No.1GYS4HKJ3GR342043. The importer declared the vehicle as an eight seater vehicle mentioning the seller as M/s Auto Group International (Pvt.) Ltd., Sri Lanka and declared the country of origin as Australia. In fact, on investigation conducted by the DRI, based on specific information, it was found that 2016 model "Cadillac Escalade SUV" with VIN No.1GYS4HKJ3GR342043, sold to M/s Bolton Motors Product Inc., Ontario, Canada, has been imported into India through Chennai Seaport by M/s Orion Enterprises, Mumbai, by altering the seating capacity from 8 (including driver) to 10 seater intentionally to classify the said vehicle under Customs Tariff Heading (in short "CTH") 8702 and paid a lesser customs duty. The importer, having mis-declared the description of the vehicle, the country of origin of the vehicle and value had availed benefit of Notification No.12/2012, Central

Excise dated 17/03/2012 by producing documents, such as, letter from M/s Auto Group International Private Limited, informing that the vehicle has been converted by them at Sri Lanka, as per the ADR compliance (ADR Approval No.48091 dated 01/11/2016), It is new vehicle and has not been registered for use in any country prior to its exportation to India and also a fabricated letter of Government of Australia to show ADR Approval. The Custom Department, having found gross violation of the import duty concession under the Custom Act, seized the vehicle on 07.04.2017. Statement of the partner of M/s Orion Enterprises was recorded. He had admitted the conversion of the vehicle increasing the seating capacity to avail the duty concession. The declaration made by the importer before the Sri Lankan Customs Authority was not the same declaration before the Indian Customs Authority.

3. The following discrepancies were found.:-

Sri Lankan Customs	***Indian Customs***
Country of origin was USA	Country of origin Australia
Classified as CTH 8703	Classified as CTH 8704
Left hand drive	Right hand drive
FOB Value:1,03,548.66USD	CIF Value:83,000 USD

4. The adjudicating authority passed order-in-original on 21.12.2017 concluding that the importer has mis-declared the goods deliberately, hence, liable for action under Section 114AA of the Customs Act, 1962. The operative

portion of the adjudicating authority order reads as below:-

"(a)I reject the declared description of vehicle as 'CADILLAC ESCALADE ESV LUXURY COLLECTION 10 SEATS, 6.2 LTR, V8 PETROL CHASSIS with VIN No.1GYS4HKJ3GR342043' imported vide bill of entry no.9023152 dated 24/03/2017 and re-determined as 'CARDILLAC ESCALADE ESV LUXURY COLLECTION 8 SEATS, 6.2 LTR, V8 PETROL CHASSIS with VIN No.1GYS4HKJ3GR342043';

(b) I reject the country of origin of the vehicle imported vide bill of entry No.9023152 dated 24/03/2017, declared as Australia and hold the country of origin as "USA";;

(c) I reject the declared value of the imported motor vehicle at Rs.64,18,752/- as transaction value and re-determined as Rs.70,23,764/- (Rupees Seventy Lakh Twenty Three Thousand Seven Hundred and Sixty Four Only) under Section 14 of the Customs Act, 1962, read the Rule 3 of the CVR, 2007;

(d) I order confiscation of the imported Motor vehicle under Section 111(d) of the Customs Act, 1962 as it violated the provision of the Foreign Trade Policy 2015-20 (notified under the Foreign Trade (Development and Regulation) Act) read the Motor Vehicles Act, 1988 and rules made there under and under Section 111(m) of Customs Act, 1962 as country of origin, value of goods along with classification of goods has been mis-declared in the bill of entry;

(e) I impose a penalty of Rs.2,00,000/- (Rupees Two lakhs Only) on M/s Orion Enterprises under Section 112(a) of the Customs Act, 1962;

(f) I impose a penalty of Rs.64,18,752/- (Rupees Sixty Four Lakh Eighteen Thousand Seven Hundred and Fifty Two Only) on M/s Orion Enterprises under Section 114AA of the Customs Act, 1962.

(g)I appropriate an amount of Rs.57,40,501/- (Rupees Fifty Seven Lakh Forty Thousand Five Hundred and One only) paid by them towards duty of the impugned vehicle.

(h) I impose a penalty of Rs.2,00,000/- (Rupees Two Lakhs Only) on Shri Mohd Salim Shaikh, Partner, M/s Orion Enterprises, under Section 112(a) of the Customs Act, 1962 for rendering goods liable for confiscation.

(i) I impose a fine of Rs.2,00,000/- (Rupees Two Lakhs Only) under Section 125 of Customs Act, 1962 in lieu of confiscation to redeem the goods for the purpose of re-export within 30 days from the date of receipt of this Order."

5. The importer questioned the order-in-original before the Commissioner of Custom (Appeals-II), Chennai, with regard to the imposition of a penalty of Rs.64,18,752/- (Rupees Sixty Four Lakh Eighteen Thousand Seven Hundred and Fifty Two Only) under Section 114AA of the Customs Act, 1962; as well as the appropriation of an amount of Rs.57,40,501/- (Rupees Fifty Seven Lakhs Forty Thousand Five Hundred and One only) paid by them towards duty of the impugned vehicle; the imposition of a penalty of Rs.2,00,000/- (Rupees Two Lakhs Only) on Shri Mohd Salim Shaikh, Partner, M/s Orion Enterprises, under Section 112(a) of the Customs Act, 1962 for rendering goods liable for confiscation; and imposition of a fine of Rs.2,00,000/- (Rupees Two Lakhs Only) under Section 125 of Customs Act, 1962, in lieu of confiscation to redeem the goods for the purpose of re-export within 30 days from the date of receipt of this Order.

6. The Appellate Authority, after examining the grounds of Appeal qua the material, held that the country of origin and the value has been mis-declared and seating capacity altered from 8 to 10 seater with a motive to evade customs duty, therefore, there is no merit in the Appeal preferred by the importer. As a consequence, the Appeal by the importer was dismissed.

7. On further Appeal before the Customs, Excise and Service Tax Appellate Tribunal by the importer and its partner, they succeeded partly. The appeal by the importer was allowed by the CESTAT with the following observations:-

> "5.1 The appeal/petition is now confined to permission to re-export the impugned vehicle on nominal fine and penalty. The lower appellate authority has already upheld the order of the original authority *inter alia* allowing re-export of vehicle on certain terms. This being so, the appeal/petition as modified by the Ld. Advocate is only restricted to allowance of more lenient terms in the matter of fine and penalty, in particular, with regard to penalty imposed under Section 114AA ibid and appropriation of amount paid towards duty.
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> 5.2 From the SCN dt. 30.8.2017, we find the raison deter for proposing imposition of penalty under Section 114AA of the Customs Act, 1962 is given in para 18 as under :
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> > "18. Further, M/s Orion also appear to be liable to penalty in terms of Section 114AA of the Customs Act, 1962 for having intentionally made, used false and incorrect declaration/documents to evade payment of legitimate customs duties as discussed in the preceding paras.."
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> 5.2 Although the said para indicates that appellant had *"intentionally made/used false and incorrect declaration of documents" as discussed in preceding paras,* we are not able to find any specific charges in the remaining part of the SCN which directly implicates the importer-appellant to have themselves caused falsification of any document. True, there are allegations in the SCN that appellant has committed misdeclaration of country of origin, value of goods and classification of the goods. However for these infractions, the SCN already proposes in paras 17 and 19 (d), confiscation under Section 111(d) and (m) of the Customs Act, 1962 and imposition of penalty under Section 112A of the Customs Act 1962. These proposals have been acted upon by the original authority who has ordered confiscation of the vehicle under Section 111(d) of the Customs Act for the reason that *"as country of origin, value of goods along with confiscation of goods has been mis-declared in the Bill of Entry".* [para 26 (d) of the

order of original authority]. From the facts on record, it is seen that both the lower authorities have found that as there has been misdeclaration of country of origin value of goods and classification of goods in the Bill of Entry provisions of Section 111 (m) of the Act would be applicable. However, nowhere in the discussion and finding portion of the adjudication order (para 24.1 onwards) has the authority discussed or justified the imposition of penalty under Section 114AA ibid in the matter. Even the LAA, while upholding the order of the original authority, has not analysed or justified the imposition of penalty under Section 114AA ibid. There is also no finding or justification given by any of the lower authorities for appropriating an amount of RS.57,40,501/- paid by the appellant towards duty of the impugned vehicle, in a situation when at the same time re-export of the vehicle has been allowed on payment of redemption fine. It is also interesting to note that while appropriation towards "duty" amount has been made, the provisions of Customs Act under which such appropriation has been made has not been indicated by any of the lower authorities. In any case, when the importer is accepting the option to re-export the imported vehicle, and the said are not cleared for home consumption into the DTA area, the question of imposition of import duties of Customs will not arise.

5.3 In the circumstances, when the permission for re-export has been made we find that sufficient justification has not been given by any of the lower authorities for imposition of penalty under Section 114AA of the Act and also for appropriation for the amount paid by the appellant towards duty amount.

5.4 Viewed in this light, while not interfering with the option accorded by the lower authorities for re-export of the vehicle, however, the penalty of Rs.64,18,752/- imposed under Section 114AA of the Customs Act, 1962 and also the appropriation of an amount of Rs.57,40,501/- paid by the appellant during investigation towards "duty", cannot then be sustained and will require to be set aside, which we hereby do. So ordered. We once again make it clear that we do not interfere with any other part of the impugned order."

8. The Department, being aggrieved by the above order of CESTAT, has filed the present appeal. At the time of admission, the following Substantial Questions of Law were framed for consideration:-

1.Whether the order of the Tribunal is perverse and contrary to the factual findings of admitted facts by the Authorities below?

2.Whether the Tribunal erred in concluding that unless the respondent had themselves caused the falsification of document, penalty under Section 114AA of the Customs Act, 1962 is not attracted?

3.Whether the Tribunal ignored the literal meaning of Section 114AA of the Customs Act, 1962, in not appreciated that penalty is attracted even on 'use of false and incorrect materials?

4.Whether the "Tribunal was justified in ignoring the findings given by the show cause notice followed by Order-in–Original and Order-in-Appeal by deleting the penalty without any cogent reasons?

5.Whether the Tribunal was correct in assuming that the order of re-export on payment of redemption fine would absolve the penal consequences envisaged under the Customs Act, 1962? and

6. Whether the Tribunal was correct in setting aside the payment of admitted customs duty on the import?"

9. The Learned Counsel appearing for the appellant submitted that the order of the Tribunal is not only erroneous, but also apparently perverse, having been passed disregarding the statutory provisions and judicial pronouncements. The Department though clearly established that the importer has mis-declared the goods with the deliberate intention of evading the duty. The conversion of 8 seater in to 10 seaters, misdeclaration of the country of its origin and undervaluation of the goods, have cumulatively exposed and established the intention of the importer to evade duty. While so, the adjudicating authority and the appellate authority, having considered the nature of violation and the rigour of Section 114AA and Section 112A of the Customs Act, 1962, had rightly imposed penalties and appropriated the amount already paid along with fine. The reasoning given by the Tribunal that the show cause notice does not find any specific charge directly implicating the importer to have themselves caused falsification of any document, is *ex facie* erroneous. When the document emanated from the custody of the importer found to be a fabricated document, the show cause notice, which specifically imputes knowledge to the importer that they had intentionally made and used false and incorrect declaration and incorrect documents to evade payment of legitimate customs duty, the content of the show cause notice is more than sufficient for the importer to place its explanation. At no point of time, the importer claimed that the show cause

notice was bereft of particulars to respond. It is for the importer to discharge the burden of proof and establish the innocence. In the absence of such evidence to discharge the burden, the Tribunal ought not to have reversed the well-considered order of the adjudicating authority, which has been confirmed by the appellate authority.

10.The Learned Counsel appearing for the Department referring the relevant provisions of the Act and the judgment of the Honourable Supreme Court of India in *M/s Navayuga Engineering Co. Ltd., v. Union of India and another reported in (2024 INSC 547*) as well as the order passed by the Customs, Excise and Service Tax Appellate Tribunal in *C.A. No.40256 of 2023, dated 07.06.2024 in the matter of M/s Scania Commercial Vehicles India Pvt. Ltd., vs. Commissioner of Customs,* contended that the Tribunal is not correct in holding that the show cause notice did not specifically speak about the fabrication of the records. CESTAT has grossly erred in holding that the order of re-export and payment of redemption fine would absolve the penal consequence envisaged under the Customs Act, 1962.

11. The Learned Counsel appearing for the Importer/ respondent submitted that the respondent imported the vehicle through an Agent at

Srilanka. The said agent converted the left hand drive vehicle into a right handed drive vehicle to make it compatible with Indian road Rules. Necessary duty was paid. Thereafter at the instance of DRI, adjudication was held and finally the vehicle was permitted to be re-exported. Therefore no duty can be levied on goods that were not imported into Indian territory. While so, neither the appropriation of custom duty paid nor the levy of penalty under Section 114AA is sustainable. Having collected fine in lieu of confiscation and permitted re-export, the importer cannot be penalised any further. Therefore, the order of the Tribunal is in consonance with the provisions of the customs Act and the judicial pronouncements. There is no question of law involved in this case more so substantial question of law, Hence, the appeal by the Department is liable to be dismissed.

12. In support of the above submission, the Learned Counsel for the importer/respondent rely on the judgement of this Court in *R. Kishore Nagaarur v. Addl. Commr. of Cus (Exports), Chennai reported in [2015 (316) E.L.T. 549 (Mds.). T*he relevant portion of the said judgment reads as below:

> "19.From the narration of facts as above, the fact that the appellant was responsible for sourcing the bogus bill for the mis-declared goods from R.B. Trades as 'Industrial Salt' to support the unlawful attempt to export Muriate of Potash is evident from the materials available on record. The further fact that payments were made by the consignee, who is none other than the sister of the appellant is also confirmed by the statement of Rajagopal the father of the appellant and the consignee, Ms.Arun Murugesh-the sister of the appellant. The above fact clearly shows the active

involvement of the appellant in the transaction. That the appellant is responsible for the attempt to illegally export by way of misdeclaration, contrary to prohibition in law is further evident from the statement of L. Subash-Proprietor of Sharma Exim Co, whose statement is to the effect that he consented to the said improper export only for the purpose of individual gain of Rs.5,000/- per container. The complicity of the appellant further gets confirmed by the statement of the Custom House Agent, who stated that the false/bogus invoice of R.B. Trades were handed over to him by the appellant and that he proceeded to file the shopping bills on the instructions of the appellant.

20.In view of the clear and categorical evidence available on record, there appears to be no error in the order passed by the Tribunal confirming the findings of the original authority as well as the Commissioner (Appeals) on levy of penalty under Section 144(i) of the Customs Act.

21.The further issue that requires consideration in the present appeal is the involvement of the appellant in the attempted export by way of mis-declaration contrary to prohibition imposed by law.

22.Section 114-AA of the Customs Act deals with penalty for use of false and incorrect materials in the process of export. Though an argument is advanced by the learned counsel for the appellant that since the Tribunal has set aside the penalty imposed under Section 114AA of the Customs Act, the proof with regard to the complicity of the appellant in the alleged improper export is doubtful and therefore, the order passed by the Tribunal with regard to penalty under Section 114(i) of the Customs Act has tobe set aside. Just because the Tribunal has given a different reasoning for setting aside the penalty imposed under Section 114AA of the Customs Act, the reasoning of the Tribunal with regard to penalty imposed under Section 114(i) of the Customs Act wherein the complicity of the appellant has been proved by clear and categorical statements and materials can be found fault. Therefore, the said portion of the order of the Tribunal upholding the penalty imposed under Section 114(i) of the Customs Act is justified and there is no error. The penalty leviable in respect of each offence will have to be considered on the nature of violation alleged therein in the light of the relevant provision of law. We are not inclined to import the reasoning from one in to the other. We find, in the facts of the present case, all the authorities have considered the material evidences available on record including the statements and have givena clear finding that the appellant was actively involved in the improper and illegal attempt to export goods by way of misdeclaration contrary to prohibition imposed

by law and therefore, this Court sees no reason to differ with the findings of the authorities below. The finding on guilt of the appellant on the basis of the material available on record is uniform in all proceedings below. The appellate Court is not inclined to re-appreciate the evidence unless it is shown that the impugned order is perverse, arbitrary and against the well established legal principles. There is no should legal principle that the appellant relies upon to interfere with the impugned order.

23.The issues raised by the appellant in the present appeal are purely questions of fact and this Court finds no question of law much less substantial questions of law arising for consideration in this appeal.

24.Accordingly, there being no merits in the present appeal, the appeal fails and the same is dismissed. However, there shall be no order as to costs."

13.Heard the rival submissions made by the learned counsels made on behalf of the appellant and the respondent.

14.It is a case of importing a foreign vehicle by mis-declaring its description, value and place of origin, thereby the importer has attempted to gain concessional custom duty, provided under Notification No.12/2012, Central Excise dated 17.03.2012.

15. Section 46(4) of the Customs Act, 1962 reads as follows:-

46(4) The importer while presenting a bill of entry shall, make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, 9 [and such other documents relating to the imported goods as may be prescribed]. 10[(4A) The importer who presents a bill of entry shall ensure the following, namely:—

(a) the accuracy and completeness of the information

given therein;

(b) the authenticity and validity of any document supporting it; and

(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

16. In case of goods improperly imported, Section 1(11)d) of the Customs Act, 1962, empowers the authority to confiscate the vehicle. Section 125 of the Act gives option to the importer to pay fine in lieu of confiscation and retain the goods importer.

17. Section 125 of the Customs Act, 1962 reads as below:-

> **125. Option to pay fine in lieu of confiscation.**—(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit:
>
> Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, no such fine shall be imposed:
>
> Provided further that, without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.
>
> (2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.
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> (3) Where the fine imposed under sub-section (1) is not

paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

Explanation.—For removal of doubts, it is hereby declared that in cases where an order under sub-section (1) has been passed before the date on which the Finance Bill, 2018 receives the assent of the President and no appeal is pending against such order as on that date, the option under said sub-section may be exercised within a period of one hundred and twenty days from the date on which such assent is received.

18. Section 114AA of the Customs Act, 1962 reads as below:

114AA-Penalty for use of false and incorrect material.—If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

19. The charging Section for genuine imports and the Sections which deal with misdeclaration and illegal imports, cannot be mixed to dilute the rigour of the statute penalising illegal or wrongful imports. Chapter XIV of the Customs Act, 1962, provides for confiscation of improperly imported goods and also imposition of penalties under Sections 111 to 114 of the Customs Act, 1962. The Act also provides for levy of fine in lieu of confiscation. Thus, under Section 125 of the Customs Act, 1962, the option is given to the importer to pay fine in lieu of confiscation. The sequence of events first commences with confiscation of goods improperly imported. Thereafter, if the importer chooses to pay fine in lieu of confiscation, he may be permitted to clear the goods on

paying the duty and fine in lieu of confiscation. If the goods cannot be permitted to be cleared for any other reason or the importer not interested in retaining the goods imported, then, after paying the fine in lieu of confiscation, the importer may seek for re-exporting of goods to the place of origin or without redeeming the goods by paying any fine in lieu of confiscation, allow the department to confiscate the goods.

20. In this case, the importer has opted to redeem the goods by paying penalty in lieu of confiscation and has also opted to pay fine for re-export. Having chosen these options, he cannot question the levy of penalty under Section 114AA of the Customs Act, 1962, as well as forfeiture of the levy of fine, which is a duty and responsibility of the sovereign. For availing import duty concession for improper goods the forfeiture and levy of penalty by the department is an action separate and independent. The levy of fine for misdeclaration is a separate action. One action will not exclude the other action, The importer cannot excuse paying the fine stating that he has already paid the duty or the penalty for improper import. The vice-versa is also not permissible. Likewise, after the importer has opted to avail the opportunity of re-exporting the goods, by redeeming the confiscated goods, he is liable to pay fine under Section 125 of the Customs Act, 1962, for redemption and re-export. Thus, the act of furnishing false documents for improper import leads to levy of penalty

and appropriation. The confiscation of the said goods or imposition of fine in lieu of confiscation, the redemption of the confiscated goods for the purpose of re-export are independent to each other and separate action is permissible under law.

21. In *M/s Navayuga Engineering Co.Ltd case (cited supra),* the Hon'ble Supreme Court of India has considered the distinct between the power to impose penality, appropriation of the duty paid, the levy of fine in lieu of confiscation and levy of fine to redeem the confiscated goods for the purpose of re-exported. It was held by the Hon'ble Apex Court that, the Act must always be read as a whole. Once the liability of confiscation is withdrawn, after the option to pay fine is exercised and the goods are redeemed, it is natural for the goods to be subjected to duty. The power and the machinery provisions for imposition and collection of duty liability exist only under Section 12 and/or 28 and not available under Section 125.

22. Contrary to the facts of the case cited above, in the case under consideration, by introduction of Sub-Section (2) to Section 125, it is clarified and declared that the owner of goods in addition to payment of fine, shall also be liable to pay duty and other charges upon exercising the option to pay fine to redeem goods. Thus, the owner of the goods is liable to pay the customs duty,

even after the confiscated goods are redeemed on payment of fine in lieu of confiscation and other charges under Section 125 of the Act.

23. In this case, we find that the adjudicating authority has taken into consideration the submissions of the importer to permit him to re-export and for that reason, he was permitted to redeem on payment of fine and re-export. While the statute distinctly empowers the authority to collect penalty or fine, as the case may be, for distinct and separate violations of the Act, the Tribunal ignoring the provisions of the Act and the spirit of the Act namely, Sections 114AA and 112(A) of the Customs Act, 1962 has rendered finding which have no legal basis.

24. Hence, we hold that the order of the Tribunal is perverse and contrary to the law. It has erred in misreading the show cause notice to hold that there is no specific averment of falsification of documents to attract Section 114AA of the Customs Act, 1962. The order of re-export on payment of redemption fine will not absolve the penal consequence envisaged under the Customs Act, 1962. If this proposition of the CESTAT is to be approved, then all illegal importers, if caught, will offer to pay a paltry sum as fine in lieu of redemption of the goods and re-export the same without suffering any penalty or custom duty for their attempt to violate the Customs Act, 1962.

25. As a result, the Substantial Questions of Law framed are held in favour of the Department. Consequently, the Civil Miscellaneous Appeal stands allowed. No costs.

(G.JAYACHANDRAN, J.) **(SHAMIM AHMED, J.)**

22.04.2026

Neutral Citation:yes
Index:yes/no
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Dr.G.JAYACHANDRAN, J.
and
SHAMIM AHMED, J.

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delivery Judgment made in
C.M.A.No.1327 of 2019

22.04.2026